



PRELIMINARY DRAFT
No. 3419

PREPARED BY
LEGISLATIVE SERVICES AGENCY
2013 GENERAL ASSEMBLY

DIGEST

Citations Affected: IC 12-7-2-131.8; IC 12-17.2.

Synopsis: National criminal history background checks for child care. Requires caregivers at certain child care providers to undergo national criminal history background checks.

Effective: July 1, 2013.



A BILL FOR AN ACT to amend the Indiana Code concerning human services.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 12-7-2-131.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 131.8. "National criminal history background check", for purposes of IC 12-17.2, means a national criminal history background check conducted by the state police department under IC 10-13-3-39.**

SECTION 2. IC 12-17.2-2-1, AS AMENDED BY P.L.1-2009, SECTION 105, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. The division shall perform the following duties:

- (1) Administer the licensing and monitoring of child care centers or child care homes in accordance with this article.
- (2) Ensure that a national criminal history background check of the applicant is completed ~~through the state police department under IC 10-13-3-39~~ before issuing a license.
- (3) Ensure that a **national** criminal history background check of a child care ministry applicant for registration is completed before registering the child care ministry.
- (4) Provide for the issuance, denial, suspension, and revocation of licenses.
- (5) Cooperate with governing bodies of child care centers and child care homes and their staffs to improve standards of child care.
- (6) Prepare at least biannually a directory of licensees with a description of the program capacity and type of children served that will be distributed to the legislature, licensees, and other interested parties as a public document.
- (7) Deposit all license application fees collected under section 2 of this chapter in the division of family resources child care fund established by IC 12-17.2-2-3.
- (8) Require each child care center or child care home to record



proof of a child's date of birth before accepting the child. A child's date of birth may be proven by the child's original birth certificate or other reliable proof of the child's date of birth, including a duly attested transcript of a birth certificate.

(9) Provide an Internet site through which members of the public may obtain the following information:

(A) Information concerning violations of this article by a licensed child care provider, including:

(i) the identity of the child care provider;

(ii) the date of the violation; and

(iii) action taken by the division in response to the violation.

(B) Current status of a child care provider's license.

(C) Other relevant information.

The Internet site may not contain the address of a child care home or information identifying an individual child. However, the site may include the county and ZIP code in which a child care home is located.

(10) Provide or approve training concerning safe sleeping practices for children to:

(A) a provider who operates a child care program in the provider's home as described in IC 12-17.2-3.5-5.5(b); and

(B) a child care home licensed under IC 12-17.2-5;

including practices to reduce the risk of sudden infant death syndrome.

SECTION 3. IC 12-17.2-4-3, AS AMENDED BY P.L.145-2006, SECTION 97, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 3. (a) An applicant must apply for a child care center license on forms provided by the division.

(b) An applicant must submit the required information as part of the application.

(c) The applicant must submit with the application a statement attesting that the applicant:

(1) has not been convicted of:

(A) a felony;

(B) a misdemeanor relating to the health or safety of children;

(C) a misdemeanor for operating a child care center without a license under section 35 of this chapter; or

(D) a misdemeanor for operating a child care home without a license under IC 12-17.2-5-35; and

(2) has not been charged with:

(A) a felony;

(B) a misdemeanor relating to the health or safety of children;

(C) a misdemeanor for operating a child care center without a license under section 35 of this chapter; or

(D) a misdemeanor for operating a child care home without a license under IC 12-17.2-5-35;



during the pendency of the application.

(d) An applicant must submit the necessary information, forms, or consents for the division to obtain a national criminal history background check on the applicant. ~~through the state police department under IC 10-13-3-39.~~

(e) The applicant must do the following:

(1) Conduct a **national** criminal history **background** check of the applicant's employees and volunteers.

(2) Maintain records of each criminal history check.

SECTION 4. IC 12-17.2-5-3, AS AMENDED BY P.L.145-2006, SECTION 100, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 3. (a) An applicant must apply for a child care home license on forms provided by the division.

(b) An applicant must submit the required information as part of the application.

(c) An applicant must submit with the application a statement attesting that the applicant has not been:

(1) convicted of:

(A) a felony;

(B) a misdemeanor relating to the health or safety of children;

(C) a misdemeanor for operating a child care center without a license under IC 12-17.2-4-35; or

(D) a misdemeanor for operating a child care home without a license under section 35 of this chapter; and

(2) charged with:

(A) a felony;

(B) a misdemeanor relating to the health or safety of children;

(C) a misdemeanor for operating a child care center without a license under IC 12-17.2-4-35; or

(D) a misdemeanor for operating a child care home without a license under section 35 of this chapter;

during the pendency of the application.

(d) An applicant must submit the necessary information, forms, or consents for the division to:

(1) conduct a **national** criminal history **background** check on the applicant's spouse; and

(2) obtain a national criminal history background check on the applicant. ~~through the state police department under IC 10-13-3-39.~~

(e) An applicant must do the following:

(1) Conduct a **national** criminal history **background** check of the applicant's:

(A) employees;

(B) volunteers; and

(C) household members who are:

(i) at least eighteen (18) years of age; or



(ii) less than eighteen (18) years of age but have previously been waived from juvenile court to adult court.

(2) Maintain records of each criminal history check.

SECTION 5. IC 12-17.2-3.5-12, AS AMENDED BY P.L.142-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 12. (a) Except as provided in subsection (f), a provider shall, at no expense to the state, maintain and make available to the division upon request a copy of a ~~limited~~ **national** criminal history **background check** for:

(1) the provider, if the provider is an individual;

(2) if the provider operates a child care program in the provider's home, any individual who resides with the provider and who is:

(A) at least eighteen (18) years of age; or

(B) less than eighteen (18) years of age but has previously been waived from juvenile court to adult court; and

(3) any individual who:

(A) is employed; or

(B) volunteers;

as a caregiver at the facility where the provider operates a child care program.

A provider shall apply for a ~~limited~~ **national** criminal history **background check** for an individual described in subdivision (3) before the individual is employed or allowed to volunteer as a caregiver.

(b) In addition to the requirement under subsection (a), a provider shall report to the division any:

(1) police investigations;

(2) arrests; and

(3) criminal convictions;

not listed on a ~~limited~~ **national** criminal history **background check** obtained under subsection (a) regarding any of the persons listed in subsection (a).

(c) A provider that meets the other eligibility requirements of this chapter is temporarily eligible to receive voucher payments until the provider receives the ~~limited~~ **national** criminal history **background check** required under subsection (a) from the state police department if:

(1) the provider:

(A) has applied for the ~~limited~~ **national** criminal history **background check** required under subsection (a); and

(B) obtains a local criminal history for the individuals described in subsection (a) from each individual's local law enforcement agency before the individual is employed or allowed to volunteer as a caregiver; and

(2) the local criminal history does not reveal that an individual has been convicted of a:



- (A) felony;
- (B) misdemeanor related to the health or safety of a child;
- (C) misdemeanor for operating a child care center without a license under IC 12-17.2-4-35; or
- (D) misdemeanor for operating a child care home without a license under IC 12-17.2-5-35.

(d) A provider is ineligible to receive a voucher payment if an individual for whom a **limited national criminal history background check** is required under this section has been convicted of a:

- (1) felony;
- (2) misdemeanor related to the health or safety of a child;
- (3) misdemeanor for operating a child care center without a license under IC 12-17.2-4-35; or
- (4) misdemeanor for operating a child care home without a license under IC 12-17.2-5-35;

until the individual is dismissed from employment or volunteer service at the facility where the provider operates a child care program or no longer resides with the provider.

(e) A provider shall maintain a written policy requiring an individual for whom a **limited national criminal history background check** is required under this section to report any criminal convictions of the individual to the provider.

(f) The state police department may not charge a church or religious society any fees or costs for responding to a request for a release of a **limited national criminal history background check** record of a prospective or current employee or a prospective or current volunteer of a child care ministry registered under IC 12-17.2-6 if the conditions set forth in IC 10-13-3-36(f) are met.

SECTION 6. IC 12-17.2-6-14, AS AMENDED BY P.L.124-2007, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 14. The child care ministry must do the following:

- (1) Conduct a **national criminal history background check** of the child care ministry's employees and volunteers.
- (2) Refrain from employing, or allowing to serve as a volunteer, an individual who:

(A) has been convicted of ~~any of the following felonies:~~

- (i) ~~Murder (IC 35-42-1-1);~~
- (ii) ~~Causing suicide (IC 35-42-1-2);~~
- (iii) ~~Assisting suicide (IC 35-42-1-2.5);~~
- (iv) ~~Voluntary manslaughter (IC 35-42-1-3);~~
- (v) ~~Reckless homicide (IC 35-42-1-5);~~
- (vi) ~~Battery (IC 35-42-2-1);~~
- (vii) ~~Aggravated battery (IC 35-42-2-1.5);~~
- (viii) ~~Kidnapping (IC 35-42-3-2);~~
- (ix) ~~Criminal confinement (IC 35-42-3-3);~~
- (x) ~~A felony sex offense under IC 35-42-4;~~



- 1 ~~(xi) Carjacking (IC 35-42-5-2);~~
- 2 ~~(xii) Arson (IC 35-43-1-1);~~
- 3 ~~(xiii) Incest (IC 35-46-1-3);~~
- 4 ~~(xiv) Neglect of a dependent (IC 35-46-1-4(a)(1) and~~
- 5 ~~IC 35-46-1-4(a)(2));~~
- 6 ~~(xv) Child selling (IC 35-46-1-4(d));~~
- 7 ~~(xvi) A felony involving a weapon under IC 35-47 or~~
- 8 ~~IC 35-47.5;~~
- 9 ~~(xvii) A felony relating to controlled substances under~~
- 10 ~~IC 35-48-4;~~
- 11 ~~(xviii) An offense relating to material or a performance that~~
- 12 ~~is harmful to minors or obscene under IC 35-49-3;~~
- 13 ~~(xix) A felony that is substantially equivalent to a felony~~
- 14 ~~listed in items (i) through (xviii) for which the conviction~~
- 15 ~~was entered in another state; a felony;~~
- 16 (B) has been convicted of a misdemeanor related to the health
- 17 or safety of a child;
- 18 **(C) has been convicted of a misdemeanor for operating a**
- 19 **child care center without a license under IC 12-17.2-4-35;**
- 20 **(D) has been convicted of a misdemeanor for operating a**
- 21 **child care home without a license under IC 12-17.2-5-35;**
- 22 or
- 23 ~~(E)~~ **(E)** is a person against whom an allegation of child abuse
- 24 or neglect has been substantiated under IC 31-33.
- 25 (3) Maintain records of each criminal history check.

